

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:)	Examiner: Habte Mered
Bradford et al)	
)	
Serial No.: 10/782,617)	Art Unit: 2616
)	
Filed: February 19, 2004)	
)	Conf. No. 5100
For: ACTIVE FLOW MANAGEMENT WITH)	
HYSTERESIS)	

Docket No.: RPS920030131US1 (IRA-10-5791)

COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the notice of allowance letter of July 15, 2008, and an interview with the examiner on July 16, 2008, applicants herewith submit the following comments.

Said notice of allowance letter of July 15, 2008 includes a copy of the Information Disclosure Statement (IDS) Form PTO-1449 filed by applicants on February 19, 2004, wherein three non-patent references listed therein (items AK, AM and AN) have been lined-through by the examiner and a “date considered” entry of “06/25/2008” provided, said lined-through notations indicating that the examiner has not considered the three lined-through non-patent references.

Item AK.

With respect to item AK (“On the transition to a low latency TCP/IP Internet” by Wydrowski et al.), as discussed with the examiner in a telephone interview of July 16, 2008, it is believed that applicants’ IDS filing on February 19, 2004 was sufficiently compliant with 37 CFR §§ 1.97 and 1.98 at the time of filing with respect to item AK in order to bring the reference before the examiner for consideration, and the examiner is requested to include this reference as a considered reference. With respect to the examiners comment that “only title provided, pages 2631–5 not submitted,” applicants herewith submit a copy of the requested pages for entry into the file wrapper.

Moreover, it is believed that the claims allowed in the notice of allowance dated July 15, 2008 are allowable over the item AK reference and further in view of the prior art of record. More particularly, the AK reference teaches a delay-based solution suggesting that a fixed packet delay be applied in a router/switch to increase a round trip time so that drop probabilities for non-ECN (Explicit Congestion Notification) enabled sources do not increase to a point where a low latency deficiency collapse occurs. In contrast, the invention(s) claimed by the present allowed claims incorporate hysteresis limitations in a novel configuration that reduces drop probabilities, said specific claim limitations not taught, obvious or unpatentable in view of the AK reference itself or in combination with the other prior art of record.

Item AM.

With respect to item AM (“Modeling and analysis of threshold queues with hysteresis including stochastic Petri Nets” by Tuffen et al), in said telephone interview of

July 16, 2008 the examiner agreed that this reference item AM has been considered, and that this reference is properly listed as a considered reference with respect to the issued patent. More particularly, an office action letter of July 9, 2007 included a copy of the IDS Form PTO-1449 filed by applicants on February 19, 2004 annotated with a “date considered” entry of “06/22/2007” wherein item AM was initialed by the examiner (“/H.M./”) and thus considered pursuant to MPEP § 609.05. Further, in said interview the examiner requested further information with respect to the date of publication of the AM reference for inclusion with the issued patent document. Accordingly, applicants provide herewith a copy of an Abstract of the AM reference indicating said date of publication is **September, 2001**.

Item AN.

With respect to item AN (“A stochastic model for a Hysteresis based priority queuing strategy” by Thiagarajan et al), in said telephone interview of July 16, 2008 the examiner agreed that this reference item AN has been considered, and that this reference is properly listed as a considered reference with respect to the issued patent. More particularly, an office action letter of July 9, 2007 included a copy of the IDS Form PTO-1449 filed by applicants on February 19, 2004 annotated with a “date considered” entry of “06/22/2007” wherein item AN was initialed by the examiner (“/H.M./”) and thus considered pursuant to MPEP § 609.05. Further, in said interview, the examiner requested additional information with respect to the date of publication of the AN reference for inclusion with the issued patent document. Accordingly, applicants provide herewith a copy of an Abstract of the AN reference indicating said date of publication is **June, 1998**.

Conclusion

In conclusion, as discussed with the examiner in the telephone interview of July 16, 2008, it is applicants' understanding that filing of the present comments as well as the associated attachments are properly entered at this time and render reference items AK, AM and AN properly considered in the file wrapper of the present application without the requirement of any fees or without requiring removal of the application from issuance. If, however, any additional fees are required, the Patent Office is authorized to charge said fees against deposit account number 50-0563 in order to effect filing of the present document and attachments.

Respectfully submitted,

Date: July 22, 2008

/Patrick J. Daugherty/
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